

### **13-3551. Definitions**

In this chapter, unless the context otherwise requires:

1. "Advertising" or "advertisement" means any message in any medium that offers or solicits any person to engage in sexual conduct in this state.
2. "Communication service provider" has the same meaning prescribed in section 13-3001.
3. "Computer" has the same meaning prescribed in section 13-2301, subsection E.
4. "Computer system" has the same meaning prescribed in section 13-2301, subsection E.
5. "Exploitive exhibition" means the actual or simulated exhibition of the genitals or pubic or rectal areas of any person for the purpose of sexual stimulation of the viewer.
6. "Minor" means a person or persons who were under eighteen years of age at the time a visual depiction was created, adapted or modified.
7. "Network" has the same meaning prescribed in section 13-2301, subsection E.
8. "Producing" means financing, directing, manufacturing, issuing, publishing or advertising for pecuniary gain.
9. "Remote computing service" has the same meaning prescribed in section 13-3001.
10. "Sexual conduct" means actual or simulated:
  - (a) Sexual intercourse, including genital-genital, oral-genital, anal-genital or oral-anal, whether between persons of the same or opposite sex.
  - (b) Penetration of the vagina or rectum by any object except when done as part of a recognized medical procedure.
  - (c) Sexual bestiality.
  - (d) Masturbation, for the purpose of sexual stimulation of the viewer.
  - (e) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.
  - (f) Defecation or urination for the purpose of sexual stimulation of the viewer.
11. "Simulated" means any depicting of the genitals or rectal areas that gives the appearance of sexual conduct or incipient sexual conduct.
12. "Visual depiction" includes each visual image that is contained in an undeveloped film, videotape or photograph or data stored in any form and that is capable of conversion into a visual image.

### **13-3552. Commercial sexual exploitation of a minor; classification**

A. A person commits commercial sexual exploitation of a minor by knowingly:

1. Using, employing, persuading, enticing, inducing or coercing a minor to engage in or assist others to engage in exploitive exhibition or other sexual conduct for the purpose of producing any visual depiction or live act depicting such conduct.
2. Using, employing, persuading, enticing, inducing or coercing a minor to expose the genitals or anus or the areola or nipple of the female breast for financial or commercial gain.
3. Permitting a minor under the person's custody or control to engage in or assist others to engage in exploitive exhibition or other sexual conduct for the purpose of producing any visual depiction or live act depicting such conduct.
4. Transporting or financing the transportation of any minor through or across this state with the intent that the minor engage in prostitution, exploitive exhibition or other sexual conduct for the purpose of producing a visual depiction or live act depicting such conduct.
5. Using an advertisement for prostitution as defined in section 13-3211 that contains a visual depiction of a minor.

B. Subsection A, paragraph 5 of this section does not apply to an act that is prohibited by section 13-3555 or to websites or internet service providers that host advertisements created and published by third parties and do not participate in creating or publishing the advertisements.

C. Commercial sexual exploitation of a minor is a class 2 felony and if the minor is under fifteen years of age it is punishable pursuant to section 13-705.

### **13-3553. Sexual exploitation of a minor; evidence; classification**

A. A person commits sexual exploitation of a minor by knowingly:

1. Recording, filming, photographing, developing or duplicating any visual depiction in which a minor is engaged in exploitive exhibition or other sexual conduct.

2. Distributing, transporting, exhibiting, receiving, selling, purchasing, electronically transmitting, possessing or exchanging any visual depiction in which a minor is engaged in exploitive exhibition or other sexual conduct.

B. If any visual depiction of sexual exploitation of a minor is admitted into evidence, the court shall seal that evidence at the conclusion of any grand jury proceeding, hearing or trial.

C. Sexual exploitation of a minor is a class 2 felony and if the minor is under fifteen years of age it is punishable pursuant to section 13-705.

**13-3554. Luring a minor for sexual exploitation; classification**

A. A person commits luring a minor for sexual exploitation by offering or soliciting sexual conduct with another person knowing or having reason to know that the other person is a minor.

B. It is not a defense to a prosecution for a violation of this section that the other person is not a minor.

C. Luring a minor for sexual exploitation is a class 3 felony, and if the minor is under fifteen years of age it is punishable pursuant to section 13-705.

**13-3555. Portraying adult as minor; classification**

A. It is unlawful for any person depicted in a visual depiction or live act as a participant in any exploitive exhibition or sexual conduct to masquerade as a minor.

B. It is unlawful for any person knowingly to produce, record, film, photograph, develop, duplicate, distribute, transport, exhibit, electronically transmit, sell, purchase or exchange any visual depiction whose text, title or visual representation depicts a participant in any exploitive exhibition or sexual conduct as a minor even though any such participant is an adult.

C. Any person who violates this section is guilty of a class 1 misdemeanor.

**13-3556. Permissible inferences**

In a prosecution relating to the sexual exploitation of children, the trier of fact may draw the inference that a participant is a minor if the visual depiction or live act through its title, text or visual representation depicts the participant as a minor.

**13-3557. Equipment; forfeiture**

On the conviction of a person for a violation of section 13-3552, 13-3553, 13-3554 or 13-3560, the court shall order that any photographic equipment, computer system or instrument of communication that is owned or used exclusively by the person and that was used in the commission of the offense be forfeited and sold, destroyed or otherwise properly disposed.

**13-3558. Admitting minors to public displays of sexual conduct; constructive knowledge of age; classification**

A. It is unlawful for an owner, operator or employee to admit a person under the age of eighteen into any business establishment where persons, in the course of their employment expose their genitals or anus or the areola or nipple of the female breast.

B. An owner, operator or employee who admits a person to an establishment without evidence of the person's age as required in section 4-241, subsection A is deemed to have constructive knowledge of the person's age.

C. A person who violates this section is guilty of a class 6 felony.

**13-3559. Reporting suspected visual depictions of sexual exploitation of a minor; immunity**

A. Any communication service provider, remote computing service, system administrator, computer repair technician or other person who discovers suspected visual depictions of sexual exploitation of a minor on a computer, computer system or network or in any other storage medium may report that discovery to a law enforcement officer.

B. A person who on discovery in good faith reports the discovery of suspected visual depictions of sexual exploitation of a minor is immune from civil liability.

C. It is an affirmative defense to a prosecution for a violation of section 13-3553 that on discovery a person in good faith reports the discovery of unsolicited suspected visual depictions involving the sexual exploitation of a minor.

**13-3560. Aggravated luring a minor for sexual exploitation; classification; definitions**

A. A person commits aggravated luring a minor for sexual exploitation if the person does both of the following:

1. Knowing the character and content of the depiction, uses an electronic communication device to transmit at least one visual depiction of material that is harmful to minors for the purpose of initiating or engaging in communication with a recipient who the person knows or has reason to know is a minor.

2. By means of the communication, offers or solicits sexual conduct with the minor. The offer or solicitation may occur before, contemporaneously with, after or as an integrated part of the transmission of the visual depiction.

B. It is not a defense to a prosecution for a violation of this section that the other person is not a minor or that the other person is a peace officer posing as a minor.

C. Aggravated luring a minor for sexual exploitation is a class 2 felony, and if the minor is under fifteen years of age it is punishable pursuant to section 13-705, subsection D.

D. The defense prescribed in section 13-1407, subsection F applies to a prosecution pursuant to this section.

E. For the purposes of this section:

1. "Electronic communication device" means any electronic device that is capable of transmitting visual depictions and includes any of the following:

(a) A computer, computer system or network as defined in section 13-2301.

(b) A cellular or wireless telephone as defined in section 13-4801.

2. "Harmful to minors" has the same meaning prescribed in section 13-3501.

**13-3561. Unlawful age misrepresentation; classification; definition**

A. A person commits unlawful age misrepresentation if the person is at least eighteen years of age, and knowing or having reason to know that the recipient of a communication is a minor, uses an electronic communication device to knowingly misrepresent the person's age for the purpose of committing any sexual offense involving the recipient that is listed in section 13-3821, subsection A.

B. It is not a defense to a prosecution for a violation of this section that the recipient is not a minor.

C. This section does not apply to peace officers who act in their official capacity within the scope of their authority and in the line of duty.

D. Unlawful age misrepresentation is a class 3 felony, and if the minor is under fifteen years of age it is punishable pursuant to section 13-705.

E. For the purposes of this section, "electronic communication device" means any electronic device that is capable of transmitting visual depictions and includes any of the following:

1. A computer, computer system or network as defined in section 13-2301.

2. A cellular or wireless telephone as defined in section 13-4801.